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March 10, 2015

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From: Sachi A. Hamai *SH*
Interim Chief Executive Officer

WASHINGTON, D.C. UPDATE - PURSUIT OF COUNTY POSITION ON CHILD SEX TRAFFICKING LEGISLATION

Executive Summary

This memorandum is to provide the Board with an update on the Justice for Victims of Trafficking Act (H.R. 181/S. 178), which is the most comprehensive human trafficking legislation pending before Congress. It also contains a pursuit of County position to support increased appropriations for state and local grants to combat child sex trafficking and assist its victims, and to support legislation which would increase child sex trafficking funding for the County and strengthen the ability of the County to combat child sex trafficking, train staff and providers, and assist trafficking victims.

Background

Child sex trafficking -- the commercial sexual exploitation of children (CSEC) -- is a major problem in the United States. Actual data on the number of child sex trafficking crimes and victims, however, is not collected, nationally. Sex trafficking is not classified as a crime in the National Uniform Crime Report (UCR) crime-reporting system, and the broader term, "human trafficking," was only recently added as a crime in the UCR in January 2013. The Federal Bureau of Investigations (FBI) has designated Los Angeles as one of the nation's High Intensity Child Prostitution areas.

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The County has played a leading role in combatting child sex trafficking, which is a Board priority. In 2011, the County's Probation Department and Juvenile Court were awarded multi-year grants to supervise and serve sexually trafficked youth in the juvenile justice system through a multi-agency team approach in a specialized juvenile court that avoids the typical adversarial nature of delinquency proceedings. These nationally recognized projects, which were funded by the State of California from its Federal Title II Juvenile Justice Formula Grant allocation, ended on December 31, 2014.

The Probation Department and Juvenile Court sought funding through the State because other direct Federal grant funding to assist child sex trafficking victims is extremely limited. There are a few Federal grants for assisting trafficking victims that are authorized by the Trafficking Victims Protection Act (TVPA), but those grants have received relatively little or no funding over the years. In Federal Fiscal Year (FFY) 2014, \$12.25 million was appropriated to the Department of Justice (DOJ) for trafficking victim services. As in prior years, none of this FFY 2014 appropriation was used for the two existing DOJ state and local human trafficking grant programs:

- **Child Sex Trafficking Block Grant** (authorized by 42 U.S.C. 14044a) under which renewable competitive grants of \$1.5 million to \$2.0 million a year may be awarded to up to four state or local governments to provide services to child sex trafficking victims (authorized funding level of \$8 million a year). Grantees are required to use at least 67 percent of the grant to provide residential care, 24-hour emergency social service response, clothing and daily necessities, and/or case management services to CSEC victims through non-governmental organizations; and
- **Grant for State and Local Law Enforcement Efforts to Combat Trafficking in Persons** (authorized under 42 U.S.C. 14044c) under which competitive grants may be awarded to state and local government law enforcement agencies to fund a multi-agency approach to combatting human trafficking (authorized funding level of \$10 million a year).

As in past years, DOJ mainly used the FFY 2014 appropriation of \$12.25 million to fund grants through its Services for Victims of Human Trafficking Program [authorized under 22 U.S.C. 7105(b)(2)] to develop, expand, or strengthen services for human trafficking victims, not limited to CSEC victims. While state and local governments are eligible to receive grants under this program, only one of the 29 grants totaling \$11.3 million was awarded to a state or locality in FFY 2014. Only two grants were awarded to a state or locality in the past four years. Since the program's inception, the vast majority of grants have been awarded to non-profit organizations.

For FFY 2015, Congress nearly tripled the appropriation for trafficking victim services to \$42.25 million. As in previous fiscal years, DOJ has the discretion to decide how the victim services appropriation is allocated among authorized grants and activities. This includes the discretion to fund the aforementioned state and local human trafficking grant programs. To date, DOJ neither has released any FFY 2015 grant announcements nor indicated how it will use the FFY 2015 appropriation.

Justice for Victims of Trafficking Act

The Justice for Victims of Trafficking Act (JVTA), H.R. 181 (Poe, R-TX) and S. 178 (Cornyn, R-TX), is the most comprehensive human trafficking legislation pending before Congress, which also has strong bipartisan support and is likely to be enacted this year. Last year, the County supported JVTA legislation (S. 1738 and H.R. 3530), which were identical when the bills were introduced by Senator Cornyn and Representative Poe on November 19, 2013. The House amended and passed H.R. 3530 on May 20, 2014, but the Senate did not act on any JVTA bill before the 113th Congress adjourned.

The current JVTA bills (H.R. 181 and S. 178) before the 114th Congress include the following provisions of County interest:

- Creates a new Victim-Centered Child Human Trafficking Block Grant to help state and local governments to implement comprehensive programs to investigate and prosecute human traffickers, provide specialized training, assist victims, and establish specialized court programs for trafficking victims. This new program is called a block grant, but actually would award competitive grants to only a few state and local governments each year;
- Streamlines human trafficking investigations by facilitating the ability of state and local prosecutors to obtain wiretap warrants to find evidence of CSEC or other human trafficking offenses; and
- Reduces the demand for child prostitutes by making it a Federal crime to patronize or solicit sex acts from a child.

Of County interest, H.R. 181 and S. 178 include the following differences:

Domestic Trafficking Victims Fund: S. 178, but not H.R. 181, creates a Domestic Trafficking Victims Fund ("Fund") into which increased financial penalties that would be assessed on human traffickers would be deposited, and which would be used to fund support programs for victims of human trafficking and child pornography in FFYs 2016 through 2020.

Victim-Centered Child Human Trafficking Block Grant: S. 178 authorizes the Attorney General to use up to \$7 million a year from its Fund for this grant in FFYs 2016 through 2020 while the House bill authorizes \$5 million a year for this grant in FFYs 2015 through 2019. Both versions require a state or local government to have developed a multi-disciplinary plan to combat child human trafficking in order to be eligible to receive a grant. However, S. 178, but not H.R. 181, requires the plan to include seven specific elements, including “the establishment of a shelter for victims of child human trafficking, through existing or new facilities” and “the provision of trauma-informed, gender-responsive rehabilitative care to victims of child human trafficking.” The Senate’s plan requirements are problematic because key terms, such as the “establishment of a shelter for victims of child human trafficking” or “trauma-informed, gender-responsive rehabilitative care,” are not defined and are unclear. For example, it is unclear whether an acceptable shelter for CSEC victims would include County-funded private emergency shelters and residential facilities into which indigent persons and/or abused and neglected children are placed, including, but not limited to CSEC victims. It also is unclear what documentation would be required of grant applicants to demonstrate that they meet eligibility requirements for the grant.

Combat Human Trafficking Act: S. 178, but not H.R. 181, includes provisions of the County-supported Combat Human Trafficking Act, sponsored by Senator Feinstein, which directs DOJ to ensure that each of its human trafficking programs include training one effective methods for investigating and prosecuting buyers of sex acts and for connecting trafficking victims with health providers and to also require DOJ’s Bureau of Justice Statistics to prepare annual reports on arrests, prosecutions, convictions, and sentences for human trafficking by states. Both versions, however, include provisions from this Act to extend wiretap authority to human trafficking investigations, make it a crime to patronize or solicit sex acts from a child, and strengthen crime victims’ rights, such as by informing them of plea agreements or deferred prosecution agreements. This Act originally was introduced as S. 2941 by Senator Feinstein in November 2014.

On January 27, 2014, the House passed its version of the JVTA (H.R. 181), which is similar to H.R. 3530, as passed by the House last year. On March 2, 2015, the Senate Judiciary Committee reported its JVTA bill (S. 178) after amending the bill in Committee on February 26, 2015, including by adding provisions from Senator Feinstein’s Combat Human Trafficking Act into the bill. Senate floor debate on S. 178 began on March 10, 2015.

Pursuit of County Position on Legislation

The County’s Federal and State Legislative Agendas and other existing Board policies support proposals to combat child sex trafficking, increase penalties for individuals

involved in child sex trafficking, improve training, and assist victims. The Federal Legislative Agenda also includes overall principles to maximize Federal revenue and increase flexibility for the County and policies supporting increased Federal law enforcement and justice assistance funding for child sex trafficking programs and activities. In addition, on November 25, 2014, the Board adopted a motion to support Senator Feinstein's Combat Human Trafficking Act legislation.

Based on these existing policies, and unless otherwise instructed by the Board, the County's Washington, D.C. advocates will: 1) pursue increased appropriations for grants to state and local governments which would help the County to combat child sex trafficking and assist its victims; and 2) support legislation which would increase penalties on child sex traffickers, increase child sex trafficking funding opportunities for the County, implement the Combat Human Trafficking Act, strengthen law enforcement's capacity to combat child sex trafficking, enhance training of County staff and providers, assist CSEC victims, and increase County flexibility over the use of Federal funds to combat CSEC and assist its victims.

Examples of increased FFY 2016 appropriations and appropriations bill language which will be initially pursued include the following:

- Line-item appropriations to fully fund the two existing DOJ state and local human trafficking grants (Child Sex Trafficking Block Grant and Grant for State and Local Law Enforcement Efforts to Combat Trafficking in Persons) which never before have been appropriated funds;
- Appropriations bill language to waive the requirement that at least 67 percent of a Child Sex Trafficking Grant award be used to provide specified services through non-governmental organizations, which otherwise would severely restrict state and local flexibility over the use of funds; and
- Appropriations bill language to provide that a portion of funds appropriated for trafficking victim services, as authorized under 22 U.S.C. 7105(b)(2), be used for grants to state and local governments for multi-agency projects which provide specialized juvenile court supervision, case management, supportive services, and training to child sex trafficking victims in the juvenile justice and/or child welfare system, and specialized training to state and local staff and private providers. This would increase the potential for the County to fund multi-agency projects, such as the County's specialized "STAR" Juvenile Court for CSEC victims and specialized training provided by the Probation Department, which once were funded by the State of California using Federal juvenile justice formula grant funding.

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As indicated earlier, the JVTVA legislation (S. 178 and H.R. 181) is the main vehicle for CSEC-related legislation, which is likely to be enacted this year. Consistent with the aforementioned pursuit of County position, the County's Washington, D.C. advocates will also support the enactment of the JTVTA legislation which includes language from the County-supported Combat Human Trafficking Act and language which would increase funding opportunities for the County by:

- Including language from S. 178 which creates the Domestic Trafficking Victims Fund into which funds would be deposited from penalties assessed on human traffickers with up to \$7 million a year allocated to the Victim-Centered Child Human Trafficking Block Grant to state and local governments in FFYs 2016 through 2020. H.R. 181, instead, authorizes a lesser amount (\$5 million a year), subject to available appropriations through FFY 2019; and
- Including language to clarify and simplify the definition of state and local governments eligible to receive the new Victim-Centered Child Human Trafficking Block Grant, such as by using the definition of an eligible entity in H.R. 181, which is far less prescriptive than the definition in S. 178.

We will continue to keep you advised.

SAH:JJ:MR
MT:lm

c: All Department Heads
Legislative Strategist